

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CISCO SYSTEMS, INC.,

Plaintiff-Appellant,

v.

No. 2017-2145

ARISTA NETWORKS, INC.,

Defendant-Appellee.

**PLAINTIFF-APPELLANT’S UNOPPOSED MOTION FOR EXTENSION
OF TIME TO FILE REPLY BRIEF**

Plaintiff-Appellant Cisco Systems, Inc. (“Cisco”) respectfully submits this unopposed motion for an extension of time of thirty (30) days to file its Reply Brief, which is currently due on January 5, 2018, assuming Defendant-Appellee Arista Networks, Inc. (“Arista”) files its Appellee’s Brief on the current due date of December 22, 2017. The new due date would thus be February 5, 2018.

The Court previously granted Cisco an extension of thirty (30) days to file its Appellant’s Brief (Dkt. 28) and granted Arista an extension of sixty (60) days to file Appellee’s Brief (Dkt. 46). Cisco has not previously sought an extension of time to file its Reply Brief. Cisco has contacted counsel for Arista, who has stated that Arista consents to the requested extension of time.

This motion is made in good faith and not for the purpose of delay or other procedural advantage. In support of this motion, Cisco submits the accompanying Declaration of Kathleen M. Sullivan and states as follows:

1. While counsel for Cisco will work diligently to prepare Cisco's Reply Brief, there is good cause to support the requested extension.

2. The requested extension is warranted because of the interruptions that will be caused to the schedules of counsel and staff by office closures over the Christmas and New Year holidays, both of which fall within Cisco's current period of time to prepare the Reply Brief.

3. In addition, Cisco's principal counsel, Kathleen M. Sullivan, has multiple existing obligations in other matters near the current due date, including the following: (a) a reply brief due on December 21, 2017 in this Court in *FWP IP ApS v. Viogen M.A., Inc.* (No. 2017-2109); (b) a reply brief due on January 2, 2018 in the California Court of Appeal (Third District) in *In re Butte Fire Cases* (No. JCCP 4853); (c) a reply brief due on January 5, 2018 in the U.S. Court of Appeals for the Ninth Circuit in *Wadler v. Bio-Rad Laboratories, Inc.* (No. 17-16193); and (d) a hearing on January 11 in the U.S. District Court for the Northern District of California in *Apple, Inc. v. Samsung Electronics, Inc.* (No. 12-cv-00630-LHK). Granting the requested unopposed extension will allow Cisco's counsel to meet

these obligations while still having adequate time to finalize Cisco's Reply Brief in this case.

4. As additional good cause for this motion, an extension of time is warranted to allow Cisco to adequately prepare its response to the four *amici curiae* who have stated their intent to file briefs in support of Arista, currently due on Friday, December 29, 2017. Further, Arista has stated (Dkt. 18 at 2) that it intends to raise on appeal "whether the judgment should be affirmed on alternative grounds," which will require Cisco's Reply Brief to cover issues not covered in its opening brief.

5. Cisco's request is equitable because it will result in each side being granted the same total number of additional days (60) to prepare their appellate briefs.

STATEMENT REGARDING CONSENT

Counsel for Cisco has discussed this motion with counsel for Arista. Arista consents to the requested extension of time and will not file a response.

Dated: December 13, 2017

Respectfully submitted,

By: /s/ Kathleen M. Sullivan
Kathleen M. Sullivan
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100
kathleensullivan@quinnemanuel.com

Attorney for Plaintiff-Appellant

CERTIFICATE OF INTEREST

Counsel for Plaintiff-Appellant Cisco Systems, Inc. certifies the following:

1. The full name of every party or amicus represented by me is:

Cisco Systems, Inc.

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

N/A

3. All parent corporations and any publicly held companies that own 10% or more of the stock of the party or amicus curiae represented by me are:

None.

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or are expected to appear in this court are:

Quinn Emanuel Urquhart & Sullivan, LLP: Carl G. Anderson; Todd Anten; Amy H. Candido; Matthew Cannon; Steven C. Cherny (previously of Kirkland & Ellis LLP); Andrew M. Holmes; David A. Nelson; Jason L. Liu; John M. Neukom; Jordan R. Jaffe; Sara E. Jenkins; Peter A. Klivans; Sean S. Pak; Owen Roberts; Kathleen M. Sullivan; Kenneth K. Suh; Lance L. Yang; Mark Y. Tung

Desmarais LLP: Tom BenGera; Paul A. Bondor; John M. Desmarais; Brian Leary; Tamir Packin; Michael R. Rhodes

Kirkland & Ellis LLP: Adam R. Alper; Michael W. De Vries; Brian P. Gearing;
Alan S. Kellman; Joshua L. Simmons; Michael A. Wueste

Covington & Burling LLP: Phillip H. Warren

Boise, Schiller & Flexner: Richard A. Feinstein

**5. The title and number of any case known to counsel to be pending in this
any other court or agency that will directly affect or be directly affected by
this court's decision in the pending appeal:**

Arista Networks, Inc. v. Cisco Systems, Inc., No. 5:16-cv-00923-BLF (N.D. Cal.)
(Freeman, J.).

Dated: December 13, 2017

Respectfully submitted,

By: /s/ Kathleen M. Sullivan
Kathleen M. Sullivan
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100
kathleensullivan@quinnemanuel.com

Attorney for Plaintiff-Appellant

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CISCO SYSTEMS, INC.,

Plaintiff-Appellant,

v.

No. 2017-2145

ARISTA NETWORKS, INC.,

Defendant-Appellee.

**DECLARATION OF KATHLEEN M. SULLIVAN IN SUPPORT OF
PLAINTIFF-APPELLANT’S UNOPPOSED MOTION FOR EXTENSION
OF TIME TO FILE REPLY BRIEF**

I, Kathleen M. Sullivan, hereby declare as follows pursuant to 28 U.S.C. § 1746:

1. I represent Plaintiff-Appellant Cisco Systems, Inc. (“Cisco”) in this appeal. I submit this declaration in support of Cisco’s unopposed motion for an extension of time to file its Reply Brief.

2. Defendant-Appellee Arista Networks, Inc.’s (“Arista”) Appellee Brief in this appeal is currently due to be filed on Friday, December 22, 2017. Assuming that Arista’s brief is filed on that date, Cisco’s Reply Brief is currently due to be filed on January 5, 2018.

3. Cisco respectfully moves this Court for an enlargement of time of thirty (30) days, which will result in its Reply Brief being due on February 5, 2018.

4. Cisco previously requested, and was granted, an extension of thirty (30) days to file Appellant's Brief. Arista thereafter requested, and was granted, an extension of sixty (60) days to file Appellee's Brief. Cisco has not made any prior requests for an extension of time to file its Reply Brief.

5. Cisco requests this extension to allow sufficient time to complete preparation of its Reply Brief in this appeal.

6. While counsel will work diligently to prepare Cisco's Reply Brief, there is good cause to support the requested extension in view of the following schedule:

7. The current deadline would require the Reply Brief to be substantially prepared over the course of the holiday season, including Christmas and New Year, when lengthy office closures will disrupt counsel and staff schedules and interfere with the preparation of the Reply Brief.

8. The undersigned, who is also principal counsel for Cisco, has multiple existing obligations in other matters near the due date for Cisco's Reply Brief, including:

- a. A reply brief due on December 21, 2017 in this Court in *FWP IP ApS v. Viogen M.A., Inc.* (No. 2017-2109);
- b. A reply brief due on January 2, 2018 in the California Court of Appeal (Third District) in *In re Butte Fire Cases* (No. JCCP 4853);

- c. A reply brief due on January 5, 2018 in the U.S. Court of Appeals for the Ninth Circuit in *Wadler v. Bio-Rad Laboratories, Inc.* (No. 17-16193); and
- d. Oral argument on January 11 in the U.S. District Court for the Northern District of California in *Apple, Inc. v. Samsung Electronics, Inc.* (No. 12-cv-00630-LHK).

9. Cisco has received requests for consent from four *amici curiae* indicating that they intend to file briefs in support of Arista. Those briefs are currently due on Friday, December 29, 2017, requiring Cisco to respond to arguments beyond those made in the Appellee's Brief.

10. Arista has stated that it intends to raise on appeal "whether the judgment should be affirmed on alternative grounds" (Dkt. 18 at 2), requiring Cisco to respond to arguments in its Reply Brief that are raised for the first time in Appellee's Brief.

11. Arista has already been granted an extension of a total of sixty (60) days to file Appellee's Brief. Granting Cisco an extension of thirty (30) days to file its Reply Brief would result in both parties being granted the same total number of additional days to prepare their appellate briefs.

12. This extension of time is made in good faith and not for the purpose of delay or other procedural advantage.

13. Counsel for Cisco has discussed this motion with counsel for Arista, who stated that Arista consents to the requested extension of time and will not file a response.

14. All of the facts set forth in Cisco's motion are, to the best of my knowledge, true and correct, and are based on my personal knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 13, 2017

Respectfully submitted,

By: /s/ Kathleen M. Sullivan

Kathleen M. Sullivan

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010

Telephone: (212) 849-7000

Facsimile: (212) 849-7100

kathleensullivan@quinnemanuel.com

Attorney for Plaintiff-Appellant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 13, 2017, I electronically filed the foregoing PLAINTIFF-APPELLANT'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF with the Clerk of the Court for the United States Court of Appeals for the Federal Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Kathleen M. Sullivan
Kathleen M. Sullivan